

Appln. No. 10/789,826

Amendment dated March 29, 2005

Reply to Office Action mailed December 29, 2004

REMARKS

Reconsideration is respectfully requested.

Claims 1, 3 through 6 and 8 through 12 remain in this application.

Claims 2 and 7 have been cancelled.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraphs 1 and 2 of the Office Action

Claims 1 and 3 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. 5309826 (US '826).

Claim 1, particularly as amended, requires "a pair of heat reflective elements associated with said at least one slot, said pair of heat reflective elements being dispersed on either side of said slot", "a heating element positioned along each of said pair of heat reflective elements and between said pair of heat reflective elements along a bottom of said housing", "a timing means operationally coupled to said heating element to control a duration of heating" and "and a extraction means for facilitating removal of said taco shell from said at least one slot". These limitations have been taken from claim 2.

Examiner has indicated in paragraph 5 of the Office Action that the prior art of record fails to teach or adequately suggest the claimed features of claim 2 together with the base claim and any intervening claims. Therefore, claim 1, by virtue of its incorporation of the limitations of claim 2 and any intervening claims, is believed to be allowable.

Claim 3 is dependent upon claim 1, particularly as amended, and therefore incorporates the requirements of claim 1. Thus, claim 3 is also believed to be allowable over the cited reference.

Withdrawal of the §102(b) rejection of claims 1 and 3 is therefore respectfully requested.

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Paragraphs 3 and 4 of the Office Action

Claims 4-6 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over US '826.

Claim 1, particularly as amended, requires "a pair of heat reflective elements associated with said at least one slot, said pair of heat reflective elements being dispersed on either side of said slot", "a heating element positioned along each of said pair of heat reflective elements and between said pair of heat reflective elements along a bottom of said housing", "a timing means operationally coupled to said heating element to control a duration of heating" and "and a extraction means for facilitating removal of said taco shell from said at least one slot". These limitations have been taken from claim 2.

Examiner has indicated in paragraph 5 of the Office Action that the prior art of record fails to teach or adequately suggest the claimed features of claim 2 together with the base claim and any intervening claims. Therefore, claim 1, by virtue of its incorporation of the limitations of claim 2 and any intervening claims, is believed to be allowable.

Claim 6, particularly as amended, requires "five heat reflective elements associated with said four slots, each one of said five heat reflective elements being positioned on an associated side of one of said four slots", "a heating element positioned along each of said heat reflective elements and between each of heat reflective elements along a bottom of said housing", "a timing means operationally coupled to said heating element to control a duration of heating" and "and a extraction means for facilitating removal of said taco shell from said four slots". These limitations have been taken from claim 7.

Examiner has indicated in paragraph 5 of the Office Action that the prior art of record fails to teach or adequately suggest the claimed features of claim 7 together with the base claim and any intervening claims. Therefore, claim 6, by virtue of its incorporation of the limitations of claim 7 and any intervening claims, is believed to be allowable.

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Claims 4 and 5 are dependent upon claim 1, particularly as amended, and therefore incorporate the requirements of claim 1. Thus, claims 4 and 5 are also believed to be allowable over the cited reference.

Withdrawal of the §103(a) rejection of claims 4-6 is therefore respectfully requested.

Paragraph 5 of the Office Action

Paragraph 5 of the Office Action states that claims 2 and 7-11 would be allowable if written into independent form with the limitations of the base claim and any intervening claims.

The above amendment incorporates the limitations of claim 2 (in its as-filed form) into the recitation of claim 1, and therefore claim 1 is believed to be in condition for allowance. Claims 3 through 5, by virtue of their dependency from amended claim 1, are also submitted to be in condition for allowance.

The above amendment incorporates the limitations of claim 7 (in its as-filed form) into the recitation of claim 6, and therefore claim 6 is believed to be in condition for allowance. Claims 8 through 11, by virtue of their dependency from amended claim 6, are also submitted to be in condition for allowance.

Paragraph 6 of the Office Action

Claim 12 is allowed.


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CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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